

VERMONT LABOR RELATIONS BOARD

CHAUFFEURS, TEAMSTERS,)	
WAREHOUSEMEN AND HELPERS, LOCAL)	
597)	
and)	DOCKET NO. 83-61
)	
CHAMPLAIN VALLEY UNION HIGH)	
SCHOOL DISTRICT NO. 15 BOARD)	
OF SCHOOL DIRECTORS)	

MEMORANDUM AND ORDER

On October 5, 1983, the Chauffeurs, Teamsters, Warehousemen and Helpers, Local 597 ("Union") filed a petition to represent the school bus drivers employed by the Champlain Valley Union High School District No. 15 Board of School Directors ("Employer"). On October 20, 1983, the Employer filed an Answer to Petition and Motion to Dismiss.

The Employer moved to dismiss the petition on the grounds that the petitioned-for unit was inappropriate, and submitted that the only appropriate unit is one which includes all instructional and non-instructional aides, secretarial/clerical employees, cafeteria workers, bus drivers and custodians at the High School, excluding confidential and supervisory employees. The Employer contends the Board decision, Champlain Valley Union High School Staff Association, VEA/NEA Local 325 and Champlain Valley Union High School District No. 15 Board of School Directors, 3 VLRB 426 (1980), which involved the same Employer and the same group of employees should be controlling. Based on that decision and the statutory criteria for determining the appropriateness of a bargaining unit, the Employer contends the petition should be dismissed without need of a hearing.

In Champlain Valley High School Staff Association, supra, a local union of Vermont-NEA sought to represent a unit at Champlain Valley Union High School limited to aides, secretaries and cafeteria workers while excluding the bus drivers and custodians. In resolving this question, the Board considered the interactions of the statutory criteria for appropriateness of a bargaining unit found in 21 VSA §1724(c): community of interest, the deleterious effects of overfragmentation, and the extent of employee organization. In weighing those factors, the Board rejected the proposed unit and held that the appropriate unit was one which included the employees in the proposed unit plus the bus drivers and custodians, excluding confidential and supervisory employees.

On December 7, 1983, the Board requested the Union to inform the Board what facts have changed in the situation at Champlain Valley Union High School since the Board decision of 1980 setting up the appropriate bargaining unit warranting the Board reconsidering the appropriateness of the unit.

On December 16, 1983, the Union responded to the Board inquiry. The Union contended the Board erred in its 1980 decision, and the Union should not be bound by that decision since the bus drivers and the other employees in the unit the Board found appropriate do not work the same hours, do not work under the same supervision, do not report for work at the same place or work the same jobs, and do not share a community of interest.

In determining whether to grant the Employer's Motion to Dismiss, we look to the provisions of the Municipal Employee Relations Act (MERA) dealing with unit determinations and representation elections. 21 VSA

§1724(b) provides that when a petition to represent a unit of employees is filed by a union, the board "shall investigate the petition, and 1) if it finds reasonable cause to believe that a question of unit determination or representation exists, an appropriate hearing shall be scheduled before the board... or 2) dismiss the petition, based upon the absence of substantive evidence".

Given the belief by the present Board of the soundness of the 1980 Champlain Valley decision, we interpret this section in this instance to require the union to submit "substantive evidence" facts have changed in the situation at Champlain Valley Union High School since the Board decision of 1980 for us to find "reasonable cause to believe that a question of unit determination or representation exists" warranting a hearing before the Board to reconsider the appropriateness of the unit.

We conclude the Union has not submitted such "substantive evidence". In response to Board inquiry, it did not cite any facts that have changed at the High School since the Board decision of 1980. The factors cited by the Union in its response existed at the time the 1980 case was heard by the Board.

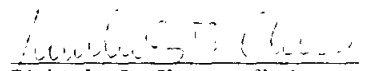
In the 1980 decision, the Board established as a policy that public rights are protected by larger units. The present Board has supported this viewpoint, see Local 1343, AFSCME, Burlington Area Public Employees Union, 4 VLRB 391 (1981), and believes the policy is as valid now as it was in 1980. We note that if the Board as a whole did not accept the rationale of the 1980 decision, we would conclude "reasonable cause" existed to hold a hearing. Absent that, however, we are inclined to dismiss the petition.

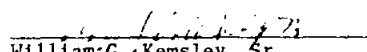
Now therefore, based on the foregoing reasons, it is hereby
ORDERED:

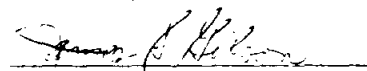
The Petition filed by the Chauffeurs, Teamsters, Warehousemen and
Helpers, Local 597 ("Union") on October 5, 1983, to represent the
school bus drivers employed by the Champlain Valley Union High School
District No. 15 Board of School Directors is DISMISSED pursuant to
21 VSA §1724 based upon the absence of substantive evidence that a
question of unit determination or representation exists.

Dated this 19th day of January, 1984, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Kimberly B. Cheney, Chairman


William G. Kemsley, Sr.


James S. Gilson